

CANVASS FOR PROVISIONAL BALLOT

2002 FIFTH SPECIAL SESSION

STATE OF UTAH

Sponsor: John W. Hickman

This act modifies the Election Code by modifying the canvass dates for primary and general elections. This act takes effect immediately.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-4-301, as last amended by Chapter 177, Laws of Utah 2002

20A-4-304, as last amended by Chapter 22, Laws of Utah 1999

20A-4-306, as last amended by Chapter 22, Laws of Utah 1999

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-4-301** is amended to read:

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for the county and for each special district whose election is conducted by the county.

(b) (i) Except as provided in Subsection (1)(b)(ii), the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, ~~[at noon on the second Friday after the election]~~ at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.

(ii) When canvassing returns for the Western States Presidential Primary, the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Thursday after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;



(ii) the county assessor; or

(iii) the county sheriff.

(d) The board of county canvassers shall always consist of three acting members.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body no sooner than three days and no later than seven days after the election.

(3) (a) This part does not apply to bond elections.

(b) Persons responsible for canvassing bond elections shall comply with the canvassing procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

Section 2. Section **20A-4-304** is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each special district election to the special district clerk.

59 (2) (a) As soon as the result is declared, the election officer shall prepare a report of the
60 result, which shall contain:

- 61 (i) the total number of votes cast in the board's jurisdiction;
62 (ii) the names of each candidate whose name appeared on the ballot;
63 (iii) the title of each ballot proposition that appeared on the ballot;
64 (iv) each office that appeared on the ballot;
65 (v) from each voting precinct:
66 (A) the number of votes for each candidate; and
67 (B) the number of votes for and against each ballot proposition;
68 (vi) the total number of votes given in the board's jurisdiction to each candidate, and for
69 and against each ballot proposition; and
70 (vii) a statement certifying that the information contained in the report is accurate.

- 71 (b) The election officer and the board of canvassers shall:
72 (i) review the report to ensure that it is correct; and
73 (ii) sign the report.
74 (c) The election officer shall:
75 (i) record or file the certified report in a book kept for that purpose;
76 (ii) prepare and transmit a certificate of nomination or election under the officer's seal to
77 each nominated or elected candidate;
78 (iii) publish a copy of the certified report in a newspaper with general circulation in the
79 board's jurisdiction and post it in a conspicuous place within the jurisdiction; and
80 (iv) file a copy of the certified report with the lieutenant governor.

81 (3) When there has been a regular general or a statewide special election for statewide
82 officers, for officers that appear on the ballot in more than one county, or for a statewide or two
83 or more county ballot proposition, each board of canvassers shall:

- 84 (a) prepare a separate report detailing the number of votes for each candidate and the
85 number of votes for and against each ballot proposition; and

- 86 (b) transmit it by registered mail to the lieutenant governor.

87 (4) In each county election, municipal election, school election, special district election,
88 and local special election, the election officer shall transmit the reports to the lieutenant governor
89 within 14 days of the canvass.

(5) In regular primary elections and in the Western States Presidential Primary, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor:

(i) not later than the second Tuesday after the primary election for the regular primary election; and

(ii) not later than the Friday after the election for the Western States Presidential Primary; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the [~~second~~] third Friday following the primary election.

Section 3. Section **20A-4-306** is amended to read:

20A-4-306. Statewide canvass.

(1) (a) The state board of canvassers shall convene:

(i) on the fourth Monday of November, at noon; or

(ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(2) (a) The state board of canvassers shall:

(i) meet in the lieutenant governor's office; and

(ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in his office that details:

(i) for each statewide officer and ballot proposition:

(A) the name of the statewide office or ballot proposition that appeared on the ballot;

(B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

(D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

(E) the total number of votes cast statewide; and

(ii) for each officer or ballot proposition voted on in two or more counties:

(A) the name of each of those offices and ballot propositions that appeared on the ballot;

(B) the candidates for those offices, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

(D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) The lieutenant governor shall:

(i) prepare certificates of election for:

(A) each successful candidate; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes;

(ii) authenticate each certificate with his seal; and

(iii) deliver a certificate of election to:

(A) each candidate who had the highest number of votes for each office; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes.

(3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

(a) send a messenger to the clerk of the board of county canvassers of the delinquent county;

(b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and

(c) pay the messenger the per diem provided by law as compensation.

(4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is

152 elected to it.

153 (5) (a) At noon on the [~~third~~] fourth Monday after the regular primary election, the
154 lieutenant governor shall:

155 (i) canvass the returns for all multicounty candidates required to file with the office of the
156 lieutenant governor; and

157 (ii) publish and file the results of the canvass in the lieutenant governor's office.

158 (b) The lieutenant governor shall certify the results of the primary canvass to the county
159 clerks not later than the August 1 after the primary election.

160 (6) (a) At noon on the third Thursday after the Western States Presidential Primary
161 election, the lieutenant governor shall:

162 (i) canvass the returns; and

163 (ii) publish and file the results of the canvass in the lieutenant governor's office.

164 (b) The lieutenant governor shall certify the results of the Western States Presidential
165 Primary canvass to each registered political party that participated in the primary not later than the
166 April 15 after the primary election.

167 Section 4. **Effective date.**

168 If approved by two-thirds of all the members elected to each house, this act takes effect
169 upon approval by the governor, or the day following the constitutional time limit of Utah
170 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
171 date of veto override.

Legislative Review Note

as of 6-24-02 2:55 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel